



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (October 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: November 24, 2020

TIME: 1:12 PM

WSR 20-24-070

Agency: Office of the Insurance Commissioner (OIC)

Effective date of rule:

Permanent Rules

31 days after filing.

Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If Yes, explain:

Purpose:

Amend one current regulation and create a new regulation to provide guidance on the limitations and use of implementation credits. The amended regulation is WAC 284-30-320 concerning definitions in trade practices and the new regulation is WAC 284-30-595 concerning unfair trade practices in the use of implementation credits. The anticipated effect of the proposed rules is to provide reference and guidance to insurers and implement the legislative amendments made to RCWs 48.30.140 and 48.30.150 through passage of SHB 1075.

Citation of rules affected by this order:

New: WAC 284-30-595

Repealed:

Amended: WAC 284-30-320

Suspended:

Statutory authority for adoption: RCW 48.02.060 and 48.43.715

Other authority: None

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 20-20-119 on October 6, 2020 (date).

Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: Tabba Alam

Address: PO Box 40260, Olympia, WA 98504-0260

Phone: 360-725-7170

Fax:

TTY:

Email: TabbaA@oic.wa.gov

Web site: www.insurance.wa.gov

Other:

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	<u>1</u>	Amended	<u>1</u>	Repealed	___

The number of sections adopted at the request of a nongovernmental entity:

New	___	Amended	___	Repealed	___
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The number of sections adopted on the agency's own initiative:

New	___	Amended	___	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	___	Repealed	___
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	___	Repealed	___

Date Adopted: November 24, 2020

Name: Mike Kreidler

Title: Insurance Commissioner

Signature:



WAC 284-30-320 Definitions. When used in this regulation, WAC 284-30-300 through 284-30-400:

(1) "Actual cash value" means the fair market value of the loss vehicle immediately prior to the loss.

(2) "Claimant" means, depending upon the circumstance, either a first party claimant, a third-party claimant, or both and includes a claimant's designated legal representative and a member of the claimant's immediate family designated by the claimant.

(3) "Comparable motor vehicle" means a vehicle that is the same make and model, of the same or newer model year, similar body style, with similar options and mileage as the loss vehicle and in similar overall condition, as established by current data. To achieve comparability, deductions or additions for options, mileage or condition may be made if they are itemized and appropriate in dollar amount.

(4) "Current data" means data within ninety days prior to or after the date of loss.

(5) "Documented expenses" means specific incurred expenses which are either paid by the group policyholder or paid on behalf of the group policyholder and for which documentation is obtained by the insurer. Such documented expenses include, but are not limited to, training, marketing, consumer awareness, information technology and computer programming and operations and administration. Such expenses must be specifically disbursed and actually incurred within the limits set forth in the policy or policy addendum.

(6) "File" means a record in any retrievable format, and unless otherwise specified, includes paper and electronic formats.

~~((6))~~ (7) "First party claimant" means an individual, corporation, association, partnership or other legal entity asserting a right as a covered person to payment under an insurance policy or insurance contract arising out of the occurrence of the contingency or loss covered by a policy or contract.

~~((7))~~ (8) "Group policyholder" means a policy owner under a group policy which provides coverage to an entire group of fifty-one or more individuals.

(9) "Insurance policy" or "insurance contract" mean any contract of insurance, indemnity, suretyship, or annuity issued, proposed for issuance, or intended for issuance by any insurer.

~~((8))~~ (10) "Insurer" means any individual, corporation, association, partnership, reciprocal exchange, interinsurer, ~~((Lloyds insurer,))~~ fraternal mutual insurer, fraternal mutual life insurer, and any other legal entity engaged in the business of insurance, authorized or licensed to issue or who issues any insurance policy or insurance contract in this state. "Insurer" does not include health care service contractors, as defined in RCW 48.44.010, and health maintenance organizations, as defined in RCW 48.46.020.

~~((9))~~ (11) "Investigation" means all activities of the insurer directly or indirectly related to the determination of liabilities under coverages afforded by an insurance policy or insurance contract.

~~((10))~~ (12) "Loss vehicle" means the damaged motor vehicle or a motor vehicle that the insurer determines is a "total loss."

~~((11))~~ (13) "Motor vehicle" means any vehicle subject to registration under chapter 46.16 RCW.

~~((12))~~ (14) "Notification of claim" means any notification, whether in writing or other means acceptable under the terms of an insurance policy or insurance contract, to the insurer or its agent, by a claimant, which reasonably apprises the insurer of the facts pertinent to a claim.

~~((13))~~ (15) "Principally garaged area" means the place where the loss vehicle is normally kept, consistent with the applicable policy of insurance.

~~((14))~~ (16) "Shall describe any such payment" means the specific expenses that are described in the group policyholder's contract or subsequent contract addendum with the insurer and which establish the limits of acceptable expenses under the contract.

(17) "Third-party claimant" means any individual, corporation, association, partnership or other legal entity asserting a claim against any individual, corporation, association, partnership or other legal entity insured under an insurance policy or insurance contract of the insurer.

~~((15))~~ (18) "Total loss" means that the insurer has determined that the cost of parts and labor, plus the salvage value, meets or exceeds, or is likely to meet or exceed, the "actual cash value" of the loss vehicle. Other factors may be considered in reaching the total loss determination, such as the existence of a biohazard or a death in the vehicle resulting from the loss.

~~((16))~~ (19) "Written" or "in writing" means any retrievable method of recording an agreement or document, and, unless otherwise specified, includes paper and electronic formats.

NEW SECTION

WAC 284-30-595 Unfair practices regarding documented expenses for implementation credits. Under RCW 48.30.140 and 48.30.150, an insurer may issue payment to offset a documented expense that is incurred by a group policy holder while transferring from one policy to another policy provided that the insurer maintains evidence of the documented expense for three years from the date of the expense. An insurer will describe in the policy or in any such filing with the commissioner that the payment made to the group policy holder will not exceed the amount of the documented expenses.

(1) The failure to maintain and document an expense incurred by a group policy holder constitutes an unfair trade practice and is a violation of this chapter.

(2) Upon the commissioner's request, the insurer must provide proof of a documented expense in the form of paper or electronic copy.